

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SAMANTHA DELANE RAJAPAKSE,
Plaintiff,
v.
FREELANCER,
Defendant.

Case No. [24-cv-00267-WHO](#)

**ORDER DISMISSING COMPLAINT
SUA SPONTE WITH LEAVE TO
AMEND, VACATING HEARING AND
CONTINUING CASE MANAGEMENT
CONFERENCE**

Re: Dkt. Nos. 33

On January 16, 2024, Plaintiff Samantha Rajapakse (“Rajapakse”), proceeding pro se, filed a complaint in this case. Dkt. No. 1. She filed her First Amended Complaint (“FAC”) on February 5, 2024, naming Freelancer, a foreign company d/b/a escrow.com as the defendant. *See* Dkt. Nos. 11, 15, 16. On May 27, 2025, third party defendant Freelancer USA filed a motion to dismiss the amended complaint. Dkt. No. 33. The motion is fully briefed. *See* Dkt. Nos. 33, 41, 42. Rajapakse filed an administrative motion for leave to file a second amended complaint. Dkt. No. 44. On June 25, 2025, I denied the administrative motion with the intent of revisiting the motion after a full review of the motion to dismiss. Dkt. No. 45.

After reviewing the record in this case,¹ it is evident that Rajapakse has failed to plead the adequate jurisdictional amount as is required for this court to maintain diversity subject matter jurisdiction. For efficiency purposes, I *sua sponte* dismiss the FAC without prejudice and vacate the motion to dismiss. Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks

¹ Both parties have requested that I take judicial notice of documents pertaining to cases that Rajapakse has filed in other federal courts. *See* Dkt. Nos. 16, 33-2–33-9. I additionally construe Rajapakse’s “Motion for Domestication of Out of State Order” as a request for judicial notice. Dkt. No. 39. Neither party objects. I GRANT both parties’ requests. *See U.S. v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003) (“Courts may only take judicial notice of adjudicative facts that are not subject to reasonable dispute.”); *Reyn’s Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006) (explaining that “court filings and other matters of public record” are sources whose accuracy is not subject to reasonable dispute).

subject-matter jurisdiction, the court must dismiss the action.”). Rajapakse may file an amended complaint in accordance with the requirements that I explain below. If appropriate, defendant(s) may then move to dismiss any second amended complaint.

I note that it also appears from the record that Rajapakse has not served the correct defendant. In her FAC and in her administrative motion for leave to file a second amended complaint, she refers primarily to “escrow.com” as the defendant in this case. She served Freelancer USA, Inc. in an apparent attempt to serve the parent company of Internet Escrow Services, Inc., Freelancer Limited, an Australian entity.² See Dkt. No.27-3 at 2. To continue her suit, she must serve the appropriate defendant. As I can best determine from the record before me, she must serve Internet Escrow Services, Inc. (d/b/a escrow.com), similar to how she brought suit against Internet Escrow Services (d/b/a escrow.com) in the judicially noticed District Court of Eastern Tennessee case.

This Court Lacks Subject Matter Jurisdiction

Federal courts are courts of limited subject matter jurisdiction. The party asserting jurisdiction has the burden of showing a federal court has jurisdiction over a case. See *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). There are two types of subject matter jurisdiction—diversity of citizenship and federal question. See *Newtok Village v. Patrick*, 21 F.4th 608, 615 (9th Cir. 2021). In her complaint, Rajapakse brings one Cause of Action for breach of contract—a state law claim.³ To bring a lawsuit in federal court alleging only state law causes of action, the diversity of citizenship requirements must be met.

² It is unclear from the record the relationship between Freelancer USA and Freelancer, an Australian entity. Counsel for third party defendant Freelancer USA, Inc. and interested party Internet Escrow Services, Inc. should clarify the relationship, if any, in the joint case management statement, now due September 3, 2025, in accordance with the continued date of the Case Management Conference of September 10, 2025.

³ In her motion for leave to file an amended complaint, Rajapakse largely seeks leave to include additional state law causes of action, including violations of both California and Virginia state laws. See Dkt. No. 43-1 at 6–9. Rajapakse also seeks to file a cause of action pursuant to 18 U.S.C. § 1343 (wire fraud). There is no private right of action under this statute, so Rajapakse may not raise it as a cause of action in her complaint. See, e.g., *Wisdom v. First Midwest Bank, of Poplar Bluff*, 167 F.3d 402, 408 (8th Cir. 1999) (collecting cases). Rajapakse also references, but does not definitively state that she wishes to allege a cause of action under, 18 U.S.C. § 1961 (The Racketeer Influenced and Corrupt Organizations Act).

There are two requirements to maintain diversity subject matter jurisdiction: (1) The citizenship of each plaintiff must be different from that of each defendant; and (2) There must be more than \$75,000 at issue. 28 U.S.C. § 1332. Rajapakse fails to plead the latter. Although she seeks “punitive damages in the amount of \$75,00[0].00,” punitive damages are not available for breach of contract cases. Dkt. No. 15 at 10; *see also Tibbs v. Great American Ins. Co.*, 755 F.2d 1370, 1375 (9th Cir. 1985) (“Under California law, punitive damages are not available for breaches of contract no matter how gross or willful.”). Federal courts therefore lack diversity subject matter jurisdiction over the case as it is currently pleaded.

Accordingly, I DISMISS the complaint without prejudice. Rajapakse may cure the lack of subject matter jurisdiction if she can amend her pleadings to either: (1) allege the adequate (and legally available) jurisdictional amount or (2) plead a federal cause of action. If she adequately pleads subject matter jurisdiction, the case may continue.⁴ Rajapakse may file any second amended complaint **no later than August 7, 2025**. The motion to dismiss and the hearing on the motion are VACATED.

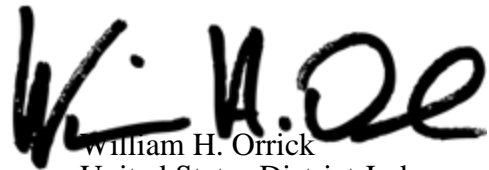
The Case Management Conference date is CONTINUED to **September 10, 2025**, at 2:00 p.m. The Joint Statement is due **September 3, 2025**.

Rajapakse may seek free limited legal assistance from the Legal Help Desk by calling the appointment line at (415) 782-8982 or emailing fedpro@sfbare.org. Appointments are available both in-person at the San Francisco and Oakland courthouses or remotely by Zoom or telephone. The Legal Help Desk provides the opportunity to speak with an attorney who will provide basic legal help, but not legal representation. For more information, visit:

cand.uscourts.gov/about/court-programs/legal-help-desks/.

IT IS SO ORDERED.

Dated: July 9, 2025


William H. Orrick
United States District Judge

⁴ To the extent that Rajapakse fails to plead a cause of action pursuant to Federal Rule of Civil Procedure 12(b)(6), I will address those concerns should they arise in any future motion to dismiss.